
700 GENERAL MAJOR OBJECTIVES

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701 Administrative Hearings

Philosophy

The goal and purpose of the Administrative Hearing process is to provide an avenue for an alleged perpetrator to challenge the conclusion of the Child and Family Services worker who has made a supported finding of one of the non-severe types of child abuse or neglect. This opportunity is provided through an informal hearing before an administrative law judge. This process is distinct from that used when a finding of severe abuse or neglect is challenged.

701.1 Right To Hearing For Alleged Perpetrators Of Non-Severe Abuse And Neglect

Major objectives:

Child and Family Services shall advise individuals of their hearing rights and assist them with the administrative hearing process.

Applicable Law

Utah Code Ann. [§62A-4a-1009](#). Notice and opportunity to challenge supported finding in Management Information System – Right of judicial review.

Procedures

- A. Hearing opportunity: When a Child and Family Services worker makes a supported finding of non-severe abuse or neglect, the alleged perpetrator will be informed of their right to challenge that finding before an administrative law judge. The alleged perpetrator has responsibility to request the hearing from the Department of Human Services, Office of Administrative Hearings.
- B. Request for and Review of Documents: An alleged perpetrator has the right to review documents related to the finding made by Child and Family Services prior to a hearing. The documents will be provided only when a proper request is made using processes established under the Government Records Access and Management Act (GRAMA). All documents relevant to the worker's finding, which can be released to the alleged perpetrator under GRAMA, will be prepared and released sufficiently in advance of the hearing to allow the alleged perpetrator to prepare for the hearing. The Child and Family Services worker making the supported finding and his or her supervisor will assist in the process of compiling and preparing the documents for release.
- C. Internal Review of Findings: Upon receiving notice that a hearing has been requested, the worker making the supported finding will review the case with his or her supervisor or other person within their region designated to review such findings. If the Child and Family Services worker believes upon reviewing the case that the supported finding was reached in error, the worker will ask that the record be changed prior to the hearing.
- D. Worker participation and Administrative support: The Child and Family Services worker who made the original finding will appear at a hearing to provide testimony and information to the administrative law judge and the

alleged perpetrator as appropriate. A supervisor or administrator will appear with each worker at every hearing.

E. Appeal of the administrative law judge decision: If after a hearing the Child and Family Services worker believes the administrative law judge reached an incorrect conclusion, the worker, through their supervisor will request an appeal to the juvenile court. This request must be communicated to the Office of the Attorney General, Child Protection Division within 10 days of the date the administrative law judge signs the final order overturning the Child and Family Services worker's finding.

F. Effect of court proceedings: If the same allegations that underlie the Child and Family Services worker's conclusions have already been adjudicated in a juvenile, district, or justice court, and the alleged perpetrator has been found to be responsible for acts that constitute abuse, neglect, or dependency, Child and Family Services will not provide a hearing to the alleged perpetrator. When these circumstances exist the Child and Family Services worker and his or her supervisor, through an Assistant Attorney General will request that the Office of Administrative Hearings dismiss the hearing request. The Child and Family Services worker will nevertheless appear at a hearing scheduled by the administrative law judge unless the case is dismissed by the Office of Administrative Hearings.

G. Stay of Office of Administrative Hearings proceedings: When a district, juvenile, or justice court is considering allegations relating to abuse, neglect, or dependency against a person who is the subject of a supported finding, and that person has requested a hearing before an administrative law judge, Child and Family Services may request a "stay" in the Office of Administrative Hearings proceedings. This does not limit the alleged perpetrator's rights and allows for the Office of Administrative Hearings to consider the Child and Family Services worker's finding at a later time. Child and Family Services will not ask for a stay in the Office of Administrative Hearings proceeding unless there is a court case underway at the time the request for hearing is made. Once a decision is made by a court, the Child and Family Services worker will ask to have the stay lifted and to have the case move forward. Where appropriate, Child and Family Services will use the findings made by the court to prove the accuracy of the Child and Family Services worker's finding.

H. Standard for proving supported finding was appropriate: By statute, the standard to be applied by the administrative law judge in reviewing the Child and Family Services worker's conclusion is the same as that which is applied by

the worker when reaching a conclusion. That is, whether there is a reasonable basis to conclude that abuse, neglect, or dependency occurred based on the evidence known to or available to the Child and Family Services worker at the time of the original finding.

- I. The administrative law judge is required to make a separate finding regarding every allegation of non-severe abuse, neglect, or dependency that the alleged perpetrator challenges. Allegations of severe abuse shall not be heard before an administrative law judge. Allegations of non-severe abuse or neglect may be heard together with allegations of severe abuse in the juvenile court.
- J. If the case is appealed to juvenile court, the court will apply the same standard as applied by the administrative law judge.
- K. Whenever a worker receives a decision from the Office of Administrative Hearings they should determine whether it has also been sent to the Child and Family Services Administrative Hearing Tracker. If it has not they must forward a copy to the tracker. The tracker will ensure that the changes to the information system are made if the decision has been overturned.
- L. Once a decision is made the worker should enter the information into the SAFE system under the Hearings tab. If the decision changes the finding originally entered in SAFE the Administrative Hearing Tracker will be responsible for ensuring the change is made.
- M. Child and Family Services workers should be aware that the Office of Administrative Hearings might dismiss a hearing request on certain allegations but not on all allegations. This might happen when some of the claims but not others have been decided by a court.
- N. A stay in administrative proceedings should only be asked for or agreed to when there is a court proceeding underway at the time the request for a hearing or a stay of hearing is made. Child and Family Services workers should ask for a stay only when the court proceeding that is underway involves Child and Family Services as a party. There is no requirement for Child and Family Services to stay its proceedings while a criminal or delinquency proceeding moves forward.

702 Child And Family Services Employees As Out-Of-Home Caregivers

Major objectives:

Child and Family Services employees may be licensed to provide out-of-home care for the Division. Placement of a child with a Child and Family Services employee must be in the best interest of the child. Child and Family Services staff will not receive preferential consideration for placements.

Applicable Law

Administrative Rule [R501-12-6](#). Foster and Proctor Parent Requirements.

Procedures

- A. A Child and Family Services employee wanting to apply to be an out-of-home caregiver must:
1. Receive approval from the Region Director of the region in which the worker is employed.
 2. Any conflict of interest matters must be addressed prior to approval of the waiver.
 3. Submit a completed waiver request form to the Office of Licensing.
 4. The case will be staffed in another Child and Family Services region for approval or denial of placement.
 5. If the Office of Licensing denies the waiver, an appeal process is available through the Department of Human Services Deputy Director and/or the Office of Administrative Hearings.

175 **703 Interstate Compact On Placement Of Children**
176 (This section has been relocated to <http://www.hspolicy.utah.gov/dcfs/>.)
177

704 Placement Of A Child In Protective Custody

Applicable Law

Utah Code Ann. [§78A-6-307](#). Shelter hearing -- Placement with a noncustodial parent or relative -- DCFS custody.

Practice Guidelines:

- A. When children are placed in protective custody, caseworkers will immediately work with the staff designated by the region, such as resource family consultants and/or kinship specialists, to find a placement for the child within 24 hours or removal. The caseworker will also consult with the family and/or available or potential Child and Family Team Members at removal regarding potential placement options. The placement decision is subject to the best interest of the child.
- B. The best interest of the child will be taken into account when considering preference for placement. The child's needs should be considered, such as the following (these are in no particular order, rather they should be considered in the context of each case and situation):
 1. Safety factors in regards to the potential placement, including the threats of harm to the child, the protective capacity of the caregiver, and the child's vulnerabilities.
 2. Reasonable proximity to the child's home.
 3. Potential benefit of placing siblings together.
 4. Educational needs, including proximity to the child's school and child's need for maintaining connections to school.
 5. Needs specific to the child's age, including developmental progress.
 6. Cultural factors, language, and religion specific to the child.
 7. Existing relationship between a kinship caregiver and the child.
 8. Health and mental health needs.
 9. Potential for ongoing care or permanency with the kinship caregiver to prevent unnecessary changes in placement.
- C. The following order of preference applies to placement of a child in the custody of Child and Family Services, and is subject to the child's best interest:
 1. A noncustodial parent of the child.
 2. A relative of the child.
 3. A friend designated by the custodial parent or guardian of the child or an extended family member of the child, if licensed as a foster parent or if the friend obtains a child specific license. The custodial parent or guardian may only designate one friend as a potential Preliminary Placement,

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- 219 unless Child and Family Services otherwise agrees. A foster parent who
220 has formerly adopted a sibling of the child may be considered as a kinship
221 placement.
- 222 4. A former foster placement if still licensed, and if applicable.
- 223 5. Other licensed family resource home.
- 224 6. "Crisis placements," such as Christmas Box House, Family Support
225 Centers, or resource families who will take the child on a temporary basis
226 while another placement is being explored. Using these facilities or crisis
227 placements for longer than 24 hours will be the last consideration, in order
228 to reduce the trauma experienced by the child as a result of multiple
229 moves. (Please refer to Practice Guidelines [Section 704.1](#) regarding Crisis
230 placements.)
- 231 7. An eligible Indian child must be placed within the foster placement
232 preferences established by ICWA:
- 233 a. A noncustodial parent of the child.
- 234 b. Member of the child's extended family, according to the tribe's
235 customary definition of extended family (25 U.S.C. §1903(2)).
- 236 c. Foster home licensed, approved, or specified by the Indian child's
237 tribe.
- 238 d. Indian foster home licensed or approved by an authorized non-
239 Indian.
- 240 e. An institution for children approved by an Indian tribe or operated
241 by an Indian organization that has a program suitable to meet the
242 child's needs.
- 243 f. If none of the above is possible, the child may be placed in a non-
244 Indian foster home or other appropriate out of home placement.
- 245
- 246 D. The caseworker will follow the protocol outlined in Practice Guidelines [Section](#)
247 [502](#), Kinship services – Preliminary Placement in order to investigate if there is a
248 non-custodial parent or other relatives available that would be able to have the
249 child placed in the home.
- 250
- 251 E. If Child and Family Services is unable to locate a placement for the child with a
252 non-custodial parent or in a kinship home, then the child may be placed in a
253 home with a licensed resource family. Each region will implement a process that
254 will allow caseworkers to match children who have been removed with
255 appropriate resource homes. Workers should also refer to Practice Guidelines
256 [Section 301.4](#) for further considerations when selecting an out-of-home caregiver.
- 257 1. If a child has been in foster care previously and reenters protective
258 custody, the child's former foster parents shall be notified if still licensed.
259 Child and Family Services will make a determination of the former foster

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- parent's willingness and ability to safely and appropriately care for the child. If the former foster home is determined by Child and Family Services to be appropriate, the former foster parent shall be given a preference over other foster parents for placement of the child.
2. In order to minimize the number of placement moves for a child, Child and Family Services should attempt to locate a resource family that is willing to have the child remain with them while the case progresses and the permanency plan for the child is being worked on. Permanency planning will continually be assessed and explored by the caseworker and the Child and Family Team. Child and Family Services will work with the resource family to provide them with support and services in order to maintain the child in the placement and to minimize the number of placement moves that the child experiences.
 3. The resource family should not be pressured to make a decision on whether they are willing to adopt the child when the child is first placed in the home.
 4. Upon placement of the child in a resource home, the caseworker will include the resource family in the Child and Family Team and ensure that they understand the permanency goal and concurrent plan for the child. Child and Family Services will keep the resource family informed of progress towards reunification, other potential placement options for the child (including kinship), and imminent changes in the long-term view and/or permanency goals.
 5. Taking into account the permanency needs of the child, Child and Family Services may give preference for the initial placement of the child to be in a resource home of a family that has already expressed a desire to adopt a child. However, if a home that has expressed a desire to adopt is unable to be located at the initiation of a case, the child may be placed in a resource home that is willing to keep the child while reunification is still in progress and/or until another potential permanent placement can be located (kinship placement or another adoptive family). The resource family will then assist with the transition of the child to the permanent home.
 6. The caseworker should use sensitivity when approaching the subject of adoption with a kinship or resource family and should allow the family an opportunity to get to know the child, understand the child's issues, and explore how adopting the child would affect their family. Keeping in mind the urgent permanency needs of the child, the caseworker shall continually assess the resource family's desire to provide permanency to the child and shall have ongoing discussions with the resource family to assess the situation. When a family that the child is placed with states that

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- they will not adopt the child, the child does not have to be moved immediately; however, the caseworker will take immediate steps to initiate the process to locate another permanent placement for the child. In the event that reunification is not successful, no kinship placement options are located, and the resource family does not desire to adopt the child, the caseworker will maintain the child in the home of the resource family until another appropriate permanent family is located. The resource family will then assist with the transition of the child into the permanent home.
7. If Child and Family Services is unable to immediately locate a resource family that is willing to provide care for the child, a "crisis placement" may be used for the child. Crises placements are a last resort and should be use sparingly and only after all other placement options have been explored. (Refer to Practice Guidelines [Section 704.1](#) for definitions and guidelines related to crisis placements.)
- F. The Child and Family Services caseworker shall make reasonable efforts to obtain information essential to the safety and well being of the child and provide the information to the out-of-home caregivers within 24 hours of placement. Either the regional resource family consultant or the caseworker may provide the information so the out-of-home caregiver can make an informed decision regarding the care of the child. Form CPS23 is used for removals as a result of a CPS case (see Practice Guidelines [Section 205.2 C](#)), and may be used to gather the information and provide it to the caregiver for children who come into protective custody through other means.
1. The Child and Family Services staff that provided the information to the caregiver will document that the information has been provided to the caregiver in the SAFE activity logs and will add the policy attachment "Placement – Child info Given to caregiver prior to placement".
 2. Caseworkers should refer to Practice Guidelines Section 301.4 for further guidance on the type of information that should be provided to the out-of-home caregiver as well as information on allowing the out-of-home caregiver to review the child's case file.
- G. The Child and Family Services caseworker shall visit the child in the placement by midnight of the second day after the date of removal from the child's parents/guardians to assess the child's adjustment to the placement and the child's well-being. Following the visit, a Child and Family Services caseworker shall continue to visit the child in the placement once per week for the first four weeks that the child is in care.

- 342 H. Once the ongoing caseworker has been assigned, that caseworker will be
343 responsible to complete the weekly visits for the first four weeks that the child is
344 in care. After the first four weeks, the caseworker shall follow Practice
345 Guidelines Section 302.2 regarding "Purposeful visiting with a child, out-of-
346 home caregivers, and parents" while the child is still in care.
347
- 348 I. The Child and Family Services caseworker shall offer the parents a visit with the
349 child within three working days of removal, if appropriate.
350
- 351 J. The caseworker will ensure that any immediate medical needs for a child
352 brought into protective custody are addressed. A physical, dental, and mental
353 health evaluation shall each be completed within 30 working days from the time
354 the child is placed in protective custody.
355
- 356 K. The ongoing case will be opened in accordance with the timelines outlined in
357 Practice Guideline Section 301.01 "Opening a Foster Care Case".
358
- 359 L. The placement information for each child shall be documented in SAFE by
360 midnight of the second business day after the removal or change in placement.
361
362

704.1 Crisis Placements

Major objectives:

When a child enters protective custody, Child and Family Services will minimize the use of "crisis placements" while other placement options are explored. Using any crisis placement for longer than 24 hours will be the last consideration, in order to reduce the trauma experienced by the child as a result of multiple moves. Placing a child in a crisis placement in a "congregate care" setting is a placement of last resort, when all other placement options have been exhausted or when there are extenuating circumstances.

Practice Guidelines:

Using a crisis placement is acceptable for less than 24 hours while the caseworker explores placement options. The caseworker should take measures to explain to the child in an age appropriate manner (if the child's mental capacity permits) that the placement is temporary.

- A. A "crisis placement" is a placement that is willing to keep the child for a temporary, short term basis, and there is an understanding that DCFS is actively working towards moving the child to a kinship placement, another resource family, or another type of placement appropriate for the child's needs. It does not include group or therapeutic settings whose purpose is to provide assessment and/or treatment for mental health or delinquency issues. A child placed in a crisis placement will have at least one unavoidable placement move. Examples of crisis placements include Christmas Box House, Family Support Centers, or resource families who will take the child on a temporary, short term basis while other placements options are sought.
 1. A "congregate care" setting is a facility that provides temporary, 24 hour care to a child by trained, rotating staff. A congregate care facility generally combines living quarters with centralized dining services, shared living spaces, and access to social and recreational activities.
 2. Children aged zero to five will be placed directly into a family home setting unless:
 - a. There are extenuating circumstances, such as they are part of a sibling group, and it is determined by the caseworker or regionally designated personnel that keeping them together outweighs the benefit of single caregiver placement. Extenuating circumstances will be documented in activity logs and approved by regionally designated personnel.
 3. The caseworker should make every effort so that the child shall not remain in a crisis placement for more than 14 days. The Child and Family Services caseworker shall coordinate with staff designated by the region,

- 404 such as resource family consultants, to locate a placement appropriate for
405 the child's needs if the child is placed in a crisis placement.
- 406 4. If a placement has not been found within 14 days, the Child and Family
407 Services caseworker shall review the child's case weekly with the
408 designated regional Placement Screening Committee.
- 409 5. For children that are initially placed in congregate care settings, there will
410 be daily efforts made to find a placement for the child. Child and Family
411 Services will implement a specific high-level administrative review
412 process in each region for children placed in congregate care that includes
413 review of all children placed in congregate care at placement and weekly
414 thereafter.
- 415 6. Efforts to find a placement for the child will be documented in the SAFE
416 activity logs.
417

704.2 Voluntary Placements

Major objectives:

The parents or guardian of a child may request that Child and Family Services place their child in a voluntary temporary out-of-home placement, or a Child and Family Services worker may offer a voluntary temporary out-of-home placement. A voluntary out-of-home placement shall only be used when the parents or guardian can have unrestricted access to the child without presenting a risk to the health, safety, or well-being of the child.

All voluntary foster care placements shall be reviewed every 45 days with the Shelter Placement Screening Committee. A child needing to remain in a voluntary out-of-home placement beyond 180 days may only do so through a court order that finds that continued placement is in the best interest of the child.

Applicable Law

Utah Code Ann. [§62A-4a-106](#). Services provided by division.

Procedures

- A. Ensure that the parent or guardian has explored all possible options for placement of the child with relatives, friends, neighbors, etc. prior to initiating a placement through Child and Family Services.
- B. Before a child is accepted for foster care placement on a voluntary basis, the parents or guardians must express a willingness to involve themselves in a time-limited child and family plan. The parents, child, and worker will develop a plan (typically 45 days) to resolve the crisis and return the child home within that time period.
- C. Parents will be notified prior to the placement that they are required to pay child support to the Office of Recovery Services while the child is in the voluntary out-of-home placement to help defray costs of the child's care.
- D. A written voluntary placement agreement must be in place at the time a child enters care and specifies, at a minimum, the legal status of the child and the rights and obligations of the parents, the child, and Child and Family Services while the child is in placement. The time period that the agreement is in effect for 45 days.

- 458 E. The family must provide documentation of medical coverage and understand
459 that they are responsible for the medical costs. The parents must also provide all
460 information necessary to make a Title IV-E and Medicaid eligibility
461 determination for the child while in the voluntary out-of-home placement.
462
- 463 F. The family must provide the child's current medical provider of the child's
464 current health and immunization status, or arrange for the child to have a CHEC
465 screen to insure the child's health needs are current while in the voluntary out-of-
466 home placement.
467
- 468 G. At any time, parents may terminate the voluntary placement and have their child
469 return home.
470
- 471 H. Payment for initial clothing or other special items will be based upon the parents'
472 ability to pay. These items may be paid by Child and Family Services at the
473 discretion of the supervisor and Region Director (or designee) and based on the
474 needs of the child.
475
- 476 I. In situations where the crisis is not resolved and it appears the child will require
477 ongoing foster care, the worker will petition the court for temporary custody. If
478 the child needs to remain in out-of-home care for longer than 180 days, the
479 worker may petition the court for custody prior to the end of the voluntary
480 placement period.
481

704.3 Domestic Violence Shelters

Major objectives:

Shelter services are offered to all persons meeting the definition of co-habitant who either voluntarily or through a court order seek domestic violence services.

The Child and Family Services caseworker may coordinate and link domestic violence victims with emergency shelter placements and services.

Applicable Law

Utah Code Ann. [§62A-4a-106](#). Services provided by division.

Procedures

Victim and Dependent Services:

- A. Emergency Shelter: A 24-hour shelter care facility that provides supervision for families.
- B. Crisis Counseling Services shall be made available to a domestic violence victim and dependents upon request
- C. Alternate Crisis Housing: May be in motels, community shelters, or other comparable facilities. *Refer to Domestic Violence Principles 600 Guidelines for victim and dependant services and alternative crisis housing.
- D. If the placement in a domestic violence shelter is made by the Child and Family Services caseworker as an alternative to removing the children from the parent or guardian's custody, a child and family team meeting shall be coordinated within three working days. (This meeting will include domestic violence shelter staff.)
- E. Shelter staff will provide information to the Child and Family Services caseworker when the family plans to leave the shelter facility.

704.4 Emergency Foster Care Placements

Major objectives:

When a child is removed from a foster care placement, the Child and Family Services worker may place a child in a temporary emergency foster placement. Shelter homes or facilities may be utilized.

Emergency Foster Care Placements must be staffed with supervisors.

Applicable Law

Utah Code Ann. [§62A-4a-106](#). Services provided by division.

Procedures

- A. Emergency foster care placements may be used:
 1. When the Child and Family Services worker has made the determination that the child's out-of-home placement may be unsafe and removal is necessary.
 2. When a more permanent placement cannot be identified.
 3. When determined to be in the best interest of the child.
- B. When emergency foster care placements are initiated, notification needs to be provided to:
 1. The parents.
 2. The Assistant Attorney General.
 3. The Guardian ad Litem.
 4. To Juvenile Court.
- C. Following an emergency foster care placement, a child and family team meeting shall be convened within three working days.
- D. The Child and Family Services worker shall visit the child in the temporary placement within 48 hours.

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